

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

CASE NO: 1:20-mc-00040-LJV

ANTONIO CABALLERO,

Plaintiff,

vs.

FUERZAS ARMADAS
REVOLUCIONARIAS DE COLOMBIA, a/k/a
FARC-EP a/k/a REVOLUTIONARY ARMED
FORCES OF COLOMBIA; and THE NORTE
DE VALLE CARTEL,

Defendants.

ANTONIO CABALLERO'S
NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Plaintiff Antonio Caballero ("Caballero"), by and through undersigned counsel and pursuant to Rule 41(a)(1)(A)(i),¹ Federal Rules of Civil Procedure, for the reasons set forth below hereby voluntarily dismisses, without prejudice, the post-judgment execution proceedings filed before this Court, but not proceedings pending in any other Court, regarding:

- (i) accounts held at M&T Bank ending in 780-000 and 9841 in the name of Petroleos de Venezuela, S.A.;
- (ii) accounts held at Citibank, N.A. in the names of PDV Marina SA; Aceites Y Solventes Venezolanos SA; Petroanzoategui SA (a/k/a Petro San Felix SA); Venfleet Asphalt Ltd; Venfleet Products Ltd; and Venfleet, Ltd. (collectively the "Subsidiaries") and accounts held in Citibank, N.A. in the names of the Banco

¹ In this post-judgment proceeding, no party has filed an answer or motion for summary judgment. As such, Rule 41(a)(1)(A)(i) permits dismissal without stipulation or order from the Court.

Central De Venezuela, and the Ministerio Del Poder Popular De Economia Y Finanzas.

Yesterday, on June 30, 2023, various parties filed briefs with the Second Circuit Court of Appeals in *Havlish, et al. v. Federal Reserve Bank of New York, Garnishee, The Taliban et al., Defendants*, consolidated under Case No. 23-258, regarding the principal issues before this Court. The appeal to the Second Circuit arises from Southern District of New York Judge Daniels' Memorandum Decision and Order provided to this Court at ECF No. 136-1. Because the principal issues before this Court are now before the Second Circuit, it would be a more efficient use of judicial resources to have the Second Circuit's decision before Caballero proceeds, if at all, against Petroleos de Venezuela, S.A. regarding accounts at M&T Bank.

With regard to the Subsidiaries, the Banco Central De Venezuela, and the Ministerio Del Poder Popular De Economia Y Finanzas, Citibank, N.A. has represented that it is holding assets in the names of the Subsidiaries, the Banco Central De Venezuela, and the Ministerio Del Poder Popular De Economia Y Finanzas within the territorial jurisdiction of the Southern District of New York not the Western District of New York. Writs have been issued by the Southern District of New York and served upon Citibank, N.A. with regard to such accounts held by Citibank, N.A. As such, any proceedings related to such accounts will be adjudicated by the Southern District of New York.

Based on the above, Caballero does not object to this Court vacating:

- (i) the Decision and Order dated 12/18/20 (ECF No. 15) finding Petroleos de Venezuela, S.A. to be an agency or instrumentality of the FARC;

- (ii) the Decision and Order dated 1/29/21 (ECF No. 33) finding the Subsidiaries, the Banco Central De Venezuela, and the Ministerio Del Poder Popular De Economia Y Finanzas to be agencies or instrumentalities of the FARC;
- (iii) the Turnover Judgment (ECF No. 35);
- (iv) the Writ of Execution directed to M&T Bank regarding Petroleos de Venezuela, S.A.; and
- (v) the Writ of Execution directed to Citibank, N.A. regarding the Subsidiaries, the Banco Central De Venezuela, and the Ministerio Del Poder Popular De Economia Y Finanzas.

DATED this 1st day of July, 2023.

Respectfully Submitted

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/s/ Leon N. Patricios

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CERTIFICATE OF SERVICE

We hereby certify that the foregoing document was filed this 1st day of July 2022 via CM/ECF.

/s/ Leon N. Patricios

Leon N. Patricios